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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,408	08/13/1999	CHRISTOPHER C. ANDREWS	ANDREWS-0080	3712
7590	02/27/2006		EXAMINER	
Jeffrey C. Hood Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. P.O. Box 398 Austin, TX 78767-0398			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2645	
DATE MAILED: 02/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/374,408	ANDREWS, CHRISTOPHER C.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph T. Phan	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 51-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 51-74 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 61 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 61, line 2 recites "*remotely recording audio data.... wherein the audio data is provided by a user...*"

Line 4 recites "...*the recorded audio data*",

Line 7 recites "*modifying the recorded audio data...*",

Line 9 recites "*storing the recorded audio data...*", and

Line 11 recites "*the audio data...*"

It is unclear if "the audio data" in lines 9 and/or 11 is referring to the "audio data" in line 2 or the "recorded audio data" in line 2 or the "modified recorded audio data" in line 7. This confusion makes the claim indefinite.

Claim 61 also recites several instances of the term "location". Line 4 recites "a location", lines 5 and 6 recites "the location", and line 13 recites "the specified location". From this, It is unclear if there is only one specified location or if there are several different locations and therefore makes the claim indefinite.

Appropriate correction and clarification is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 51-74 rejected under 35 U.S.C. 102(e) as being anticipated by Swartz, Patent #6,445,694.**

Regarding claim 51, Swartz teaches a method, comprising: receiving audio data at a recording system, wherein the audio data is received from a user over a network, wherein the recording system is remote from the user; recording the audio data at the recording system and reviewing the recorded audio data(Fig.9, Fig.10, and col.10 lines 5-18); storing the recorded audio data in an audio file on a storage device, and assigning an address to correspond to the audio file, wherein when the corresponding address is accessed by a computer system, the audio data from the audio file with the corresponding address is transmitted to the computer system; wherein the recorded audio data is reviewed prior to being accessible by the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 52, Swartz teaches the method of claim 51, wherein reviewing the recorded audio data comprises the user reviewing the recorded audio data by at least one of playing back the recorded audio data, editing the recorded audio data, and rerecording the recorded audio data(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12

lines 36-59).

Regarding claim 53, Swartz teaches the method of claim 51, wherein the reviewing the recorded audio data comprises reviewing the recorded audio data's content(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 54, Swartz teaches the method of claim 53, wherein reviewing the recorded audio data's content comprises:

converting at least a portion of the recorded audio data into text; and searching the text for at least one keyword(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 55, Swartz teaches the method of claim 51, further comprising: specifying a location for posting the recorded audio data; accessing a location profile of the location, wherein the location profile comprises a requirement for audio data to be posted at the location; modifying the recorded audio data to conform to the requirement in the location profile; and directly posting the address corresponding to the audio file in the specified location(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 56, Swartz teaches the method of claim 51, further comprising: obtaining information from the user; and storing at least a portion of the obtained information in a user profile(Fig.9, Fig.10, col.9 line 53-co1.10 line 36, and col.12 lines 36-59).

Regarding claim 57, Swartz teaches the method of claim 56, further comprising using the user profile to automatically bill the user(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 58, Swartz teaches the method of claim 51, wherein the address is assigned by a server; wherein the server transmits the audio data from the audio file with the corresponding address to the computer system when the computer system accesses the corresponding address(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 59, Swartz teaches the method of claim 51, further comprising: including the audio file in a second file, wherein when the second file is accessed by the computer system, the audio data from the audio file is transmitted to the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 60, Swartz teaches the method of claim 59, wherein the second file is an electronic mail message(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

**Regarding claim 61, Swartz** teaches a method, comprising:  
remotely recording audio data at a remote recording system, wherein the audio data is provided by a user over a network;  
specifying a location for posting the recorded audio data;  
accessing a location profile of the location, wherein the location profile comprises a requirement for audio data to be posted at the location',

modifying the recorded audio data to conform to the requirement in the location profile; storing the recorded audio data in an audio file on a storage device', assigning an address to correspond to the audio file, wherein when the corresponding address is accessed by a computer system, the audio data aom the audio file with the corresponding address is transmitted to the computer system; and directly posting the address corresponding to the audio file in the specified location(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 62, Swartz teaches the method of claim 61, further comprising: reviewing the recorded audio data; wherein the recorded audio data is reviewed prior to being accessible by the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 63, Swartz teaches the method of claim 62, wherein reviewing the recorded audio data comprises the user reviewing the recorded audio data by at least one of playing back the recorded audio data, editing the recorded audio data, and rerecording the recorded audio data(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 64, Swartz teaches the method of claim 62, wherein the reviewing the recorded audio data comprises reviewing the recorded audio data's content for at least one keyword(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 65, Swartz teaches the method of claim 61, wherein the location profile comprises at least one of path requirements, access requirements, administrative requirements, technical requirements, content requirements, and timing requirements (Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 66, Swartz teaches the method of claim 61, further comprising: obtaining information from the user; and storing at least a portion of the obtained information in a user profile(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 67, Swartz teaches the method of claim 66, further comprising using the user profile to automatically bill the user(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 68, Swartz teaches the method of claim 61, wherein the address is assigned by a server; wherein the server transmits the audio data from the audio file with the corresponding address to the computer system when the computer system accesses the corresponding address(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 69, Swartz teaches the method of claim 61, further comprising: including the audio file in a second file, wherein when the second file is accessed by the computer system, the audio data from the audio file is transmitted to the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

Regarding claim 70, Swartz teaches the method of claim 69, wherein the second file is an electronic mail message(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

**Regarding claim 71, Swartz** teaches a system, comprising:

means for receiving audio data at a recording system, wherein the audio data is received from a user over a network, wherein the recording system is remote from the user;

means for recording the audio data at the recording system';

means for reviewing the recorded audio data;

means for storing the recorded audio data in an audio file on a storage device, and

means for assigning an address to correspond to the audio file, wherein when the corresponding address is accessed by a computer system, the audio data from the audio file with the corresponding address is transmitted to the computer system; wherein the recorded audio data is reviewed prior to being accessible by the computer system(Fig.1, Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

**Regarding claim 72, Swath** teaches a memory medium comprising program instructions, wherein the program instructions are computer-executable to implement a method comprising: receiving audio data at a recording system, wherein the audio data is received from a user over a network, wherein the recording system is remote from the user; recording the audio data at the recording system,

reviewing the recorded audio data;

storing the recorded audio data in an audio file on a storage device, and assigning an address to correspond to the audio file, wherein when the corresponding address is accessed by a computer system, the audio data from the audio file with the corresponding address is transmitted to the computer system; wherein the recorded audio data is

reviewed prior to being accessible by the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

**Regarding claim 73, Swartz** teaches a system, comprising:

a central processing unit (CPU), and a memory coupled to the CPU, wherein the memory is configured to store at least one computer program executable by the CPU, and wherein at least one computer program is executable to:

receive audio data at a recording system, wherein the audio data is received from a user over a network, wherein the recording system is remote from the user; record the audio data at the recording system; review the recorded audio data; store the recorded audio data in an audio file on a storage device, and

assign an address to correspond to the audio file, wherein when the corresponding address is accessed by a computer system, the audio data from the audio file with the corresponding address is transmitted to the computer system;

wherein the recorded audio data is reviewed prior to being accessible by the computer system(Fig.1, Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

**Regarding claim 74, Swartz** teaches a method, comprising:

receiving audio data at a recording system, wherein the audio data is received from a first user over a network, wherein the recording system is remote from the first recording the audio data at the recording system, storing the recorded audio data in an audio file on a storage device; presenting the audio file to the user for approval;

assigning an address corresponding to the audio file; receiving a request for the audio file, wherein the request specifies the address corresponding to the audio file, wherein the

request is received from a computer system associated with a requesting user; providing the audio file to the computer system in response to the request; and presenting the audio file on the computer system(Fig.9, Fig.10, col.9 line 53-col.10 line 36, and col.12 lines 36-59).

### **Response to Arguments**

3. Applicant's arguments filed 11/28/05 have been fully considered but they are not persuasive.

Regarding claims 51 and 71-73 Applicant argues that the prior art of record, Swartz does not teach the limitation of "*wherein the recorded audio data is reviewed prior to being accessible by the computer system*". Examiner respectfully disagrees as the limitation does not limit the claim to 'who or how the recorded audio is reviewed', it merely states that the audio data is reviewed prior to being accessible by the computer system which can be read as the same 'review' as in line 5. Therefore multiple embodiments in Swartz can read on this limitation, for example in col.10 lines 7-15 teaches a review of the audio file which is the recorded audio data before being sent. Another embodiment that can read on the limitation as recited is in col.12 lines 38-45 wherein the system reviews the audio data by matching the recorded audio data with the phone book database before transferring to the computer system.

It is also noted that the term "audio data" recited in line 2 can also be interpreted as audio data(as in the calling # or time recorded in Fig.10) as it is a part of audio data sent by a user and therefore this information(audio data) is reviewed prior to being accessible by the computer system.

Regarding claim 61, the 112 issues above were not corrected or addressed by the applicant and therefore is still indefinite. Due to this confusion and indefiniteness, Examiner maintains the rejection above including Swartz. Regarding claim 74, it is noted that the limitation of "presenting the audio file to the user for approval" is broad enough so that it can be interpreted as "informing the parties" that the audio file is being recorded in col. 9 lines 53-67 or interpreted in the embodiment in col.10 lines 7-18 wherein the user approves the audio data file being sent.

It is noted that the terms and phrases in the claims argued above are broad enough to be interpreted on multiple embodiments in Swartz and examiner reserves the right to use other embodiments in Swartz to further interpret the claims as currently recited.

### **Conclusion**

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T. Phan whose telephone number is (571) 272-7544. The examiner can normally be reached on Mon-Fri 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTP  
February 16, 2005



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